

2015 AUG 31 AM 11:23

## UNITED STATES DEPARTMENT OF AGRICULTURE

RECEIVED

## BEFORE THE SECRETARY OF AGRICULTURE

In re:

)

AWA Docket No. 15-0 173

)

CLAUDIA OBERMILLER, an individual, )

)

Respondent.

)

COMPLAINT

There is reason to believe that the respondent named herein has willfully violated the Animal Welfare Act, as amended (7 U.S.C. §§ 2131-2159)(AWA or Act), and the regulations promulgated thereunder (9 C.F.R. §§ 1.1-4.11)(Regulations). Therefore, the Administrator of the Animal and Plant Health Inspection Service (APHIS) issues this complaint alleging the following:

JURISDICTIONAL ALLEGATIONS

1. Claudia Obermiller is an individual whose business mailing address is 915 Union Road, Farwell, Nebraska 68838. At all times mentioned herein, respondent was dealer, as that term is defined in the Act and the Regulations, and held AWA license number 47-A-0295.

ALLEGATIONS REGARDING SIZE OF BUSINESS, GRAVITY OF ALLEGED VIOLATIONS, GOOD FAITH AND COMPLIANCE HISTORY

2. Respondent reported to APHIS receipt of \$5,295 from the sale of 32 animals in 2012, \$9,725 from the sale of 57 animals in 2013, \$16,795 from the sale of 78 animals in 2014, and \$18,030 from the sale of 79 animals in 2015. APHIS issued an Official Warning to respondent on June 10, 2010. On May 29, 2012, respondent resolved alleged violations of the AWA pursuant to 9 C.F.R. § 4.11, and paid a civil penalty of \$3,893.

ALLEGED VIOLATIONS

3. On February 27, 2014, and April 8, 2014, respondent failed to provide APHIS

with access for inspection and/or to have a responsible adult available to accompany APHIS officials during inspection, in willful violation of the Act and the Regulations. 7 U.S.C. § 2146(a); 9 C.F.R. § 2.126.

4. On or about the following dates, respondent failed to provide adequate veterinary care to animals, and failed to establish and maintain programs of adequate veterinary care that included appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and/or daily observation of animals, in willful violation of the Regulations. 9 C.F.R. § 2.40(a), 9 C.F.R. § 2.40(b)(2), 9 C.F.R. § 2.40(b)(3).

a. May 16, 2012. An adult female Persian cat (Snowflake) had drainage around the inside corner of her left eye socket (the eye having previously been removed), and Snowflake had not been seen by a veterinarian.

b. May 16, 2012. An adult exotic cat (Polar Sun or Natalie Detroit) had frequent, semi-formed to loose stools and neither cat had been seen by a veterinarian.

c. April 10, 2014. A female seal point ragdoll cat (Rainey), bearing tag number 45, was squinting, her eyelids were pink and inflamed, and there was discharge in the inner corners of her eye and a dark, crusty discharge around each eye, and Rainey had not been seen by a veterinarian for these conditions.

d. April 10, 2014. A female seal point ragdoll cat (Spring), bearing tag number 12, was squinting, her third eyelids were raised, and there was a moderate amount of light brown and dark brown crust around both eyes, and Spring had not been seen by a veterinarian for these conditions.

e. April 10, 2014. The right eye of a female black and white Persian cat

(Sue), bearing tag number 31, was observed to have had a moderately cloudy surface, a thick, greyish-brown discharge in the inner corner and lower eyelid, and dark and crusty discharge underneath.

f. May 1, 2014. A female seal point ragdoll cat (Spring), bearing tag number 12, that was identified as having eye problems in April 2014, was again observed to have deteriorated, and specifically Spring was lethargic and reluctant to rise, and was unable to open her eyes, which were sealed shut with a thick yellow discharge, and respondent failed to follow-up with her attending veterinarian.

g. May 1, 2014. A female seal point ragdoll cat (Rainey), bearing tag number 45, that was identified as having eye problems in April 2014, was again observed to be squinting, with inflamed eyelids and a discharge around both eyes, and respondent failed to follow-up with her attending veterinarian.

h. May 1, 2014. A male bluepoint ragdoll cat (Blue Ice) bearing tag number 10, was squinting in both eyes, had a crusty yellowish discharge around both eyes, and his eyelids appeared pink and inflamed.

i. August 6, 2014. Seven kittens were observed to have abnormal, untreated eye conditions.

j. August 6, 2014. A female blue lynx Persion cat (Jhoni Lynx), bearing tag number 26, had a dark-colored discharge coming from her left ear.

k. August 6, 2014. A female blue point Himalayan cat (Jewel), bearing tag number 42, was observed to be squinting in her right eye, and the eye was reddened and watering.

1. November 19, 2014. An adult female tortoiseshell cat (Holly), bearing tag number 22, had an abnormally rough, dry haircoat.
5. On or about the following dates, respondent willfully violated the Regulations (9 C.F.R. § 2.100(a)), by failing to comply with the standards for cats, as follows:
  - a. May 16, 2012. Respondent housed cats in two enclosures that contained scratching boards that had begun to splinter. 9 C.F.R. § 3.1(c)(1)(ii).
  - b. September 19, 2012. Respondent housed 24 cats in enclosures with litter boxes that had not been cleaned or emptied for three to four days, and that contained an excessive amount of fecal matter. 9 C.F.R. § 3.11(a).
  - c. April 10, 2014. Respondent housed six cats in enclosures that were in disrepair, with gaps between the walls and the floors, and the areas around these gaps could not be effectively cleaned and sanitized. 9 C.F.R. § 3.1(c)(1).
  - d. April 10, 2014. Respondent housed ten cats in three enclosures that were not cleaned and sanitized, as evidenced by a buildup of grime, hair, and urine. 9 C.F.R. § 3.11(b)(3).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and the Regulations issued under the Act, this complaint shall be served upon the respondent, who shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. §§ 1.130-162.13). Failure to file an answer shall constitute an admission of all the material allegations of this complaint. APHIS requests that this matter be conducted in accordance with the Rules of Practice governing

proceedings under the Act, and that such order or orders be issued as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.  
this 28<sup>th</sup> day of Aug. 2015

A black rectangular box redacting the signature of the Administrator.

Administrator  
Animal and Plant Health Inspection Service

COLLEEN A. CARROLL  
LAUREN E. BECKER  
Attorneys for Complainant  
Office of the General Counsel  
United States Department of Agriculture  
1400 Independence Avenue, S.W.  
Room 2014 South Building  
Washington, D.C. 20250-1400  
202-690-4299 (Fax)  
[colleen.carroll@ogc.usda.gov](mailto:colleen.carroll@ogc.usda.gov); (202) 720-6430  
[lauren.becker@ogc.usda.gov](mailto:lauren.becker@ogc.usda.gov); (202) 720-7753